

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 EA-10 IO-13 ISO-00 AGR-01 CEA-01
CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 STR-07 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02
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R 281829Z JUL 78
FM AMEMBASSY BRUSSELS
TO SECSTATE WASHDC 8146
INFO ALL EC CAPITALS
USMISSION GENEVA
AMEMBASSY TOKYO

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USEEC

PARIS ALSO FOR OECD

GENEVA ALSO FOR MTN

E.O.11652:N/A
TAGS: EEC, EGEN, ETRD, EIND
SUBJECT: COMMISSION ABANDONS CRISIS CARTEL PLANS

REF: (A) BRUSSELS 3521, (B) BRUSSELS 9920,
(C) BRUSSELS 12454, (D) BRUSSELS 13150

1. AT ITS MEETING OF JULY 26, THE EC COMMISSION FAILED
TO REACH AGREEMENT ON A NEW LEGAL INSTRUMENT TO PERMIT
CRISIS CARTELS UNDER CERTAIN CONDITIONS (REF B). AFTER
THREE SUCH UNSUCCESSFUL ATTEMPTS TO APPROVE THE DOCUMENT,
COMMISSIONER VOUEL HAS "PROVISIONALLY" WITHDRAWN THE
PROPOSAL FROM THE COMMISSION AGENDA, AND ACCORDING TO
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OUR SOURCES, INCLUDING A DAVIGNON AIDE, THE PROPOSAL IS
VIRTUALLY DEAD.

2. SINCE THE CRISIS CARTEL PROPOSAL WAS DESIGNED TO
PROVIDE A LEGAL BASIS WHICH WOULD PERMIT SYNTHETIC FIBER
PRODUCERS (AND POTENTIALLY OTHER INDUSTRIES) TO OPERATE
A CARTEL, COMMISSION COMPETITION OFFICIALS MUST NOW JUDGE

THE FIBERS CARTEL ON THE BASIS OF THE NORMAL ARTICLE 85
STRICTURES AGAINST DISTORTIONS OF COMPETITION AND IF
NECESSARY PROPOSE A DECISION IN ACCORDANCE WITH ARTICLE 15
OF REGULATION 17. COMMISSION OFFICIALS HAVE ALREADY
INDICATED THAT THE CARTEL IS NOT LIKELY TO PASS THE TEST.
THE CARTEL, WHICH HAS BEEN FORMALLY NOTIFIED TO THE
COMMISSION, HAS MARKET-SHARING AND INVESTMENT RESTRICTIONS
WHICH APPEAR TO BE IN DIRECT CONTRADICTION WITH THESE
RULES. THE ONLY EXCEPTIONS PRESENTLY ALLOWED ARE FOR
AGREEMENTS WHICH PROVIDE BENEFITS TO THE ECONOMY AND TO
CONSUMERS BUT ARE LIMITED TO ONLY THOSE MEASURES NECESSARY
TO ATTAIN THESE OBJECTIVES AND DO NOT ALLOW FIRMS TO
ELIMINATE COMPETITION FOR A SUBSTANTIAL PART OF THE MARKET.
NO DECISION IS EXPECTED, HOWEVER, BEFORE OCTOBER BECAUSE
OF THE VACATION PERIOD AND THE TIME NECESSARY TO CHECK
THE OPERATIONS OF THE CARTEL AGAINST THE NOTIFICATION
MADE TO THE COMMISSION.

3. THE COMMISSION REQUESTED COMMISSIONERS DAVIGNON AND
VOUEL, CHIEF PROPONENTS OF THE CRISIS CARTEL PROPOSAL, TO
PREPARE AN ANALYSIS AND SUGGEST OTHER MEASURES SHORT OF
PRODUCER AGREEMENTS WHICH MIGHT BE APPROPRIATE TO RESOLVE
THE OVERCAPACITY PROBLEM IN THE SYNTHETIC FIBERS INDUSTRY
WITHOUT UNACCEPTABLE ECONOMIC AND SOCIAL REPERCUSSIONS.
DG III (INDUSTRIAL AFFAIRS) AND DG IV (COMPETITION) WILL
PREPARE AN ANALYSIS OF THIS PROBLEM FOR A DEBATE IN
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OCTOBER.

4. COMMENT: THIS REJECTION BY THE COMMISSION IS A
WELCOME INDICATION THAT THE COMMISSION IS NOT BENT ON
CARTELIZATION OF EC INDUSTRY. THE DECISION WAS A SETBACK
FOR DAVIGNON, WHO HAS FAVORED A CARTEL-LIKE APPROACH FOR
STEEL, SHIPBUILDING, AND SYNTHETIC FIBERS AS NECESSARY
TO CONTAIN THE DIVISIVE FORCES CAUSED BY THE SEVERE
CRISES IN THOSE INDUSTRIES, AND WHO WAS CLOSELY IDENTIFIED
WITH THE FIBERS CARTEL FROM THE BEGINNING. THE
UNEXPECTEDLY STRONG OPPOSITION TO THE PLAN, LED BY
COMMISSIONERS HAFERKAMP, BRUNNER AND TUGENDHAT, WAS
PARTLY INSPIRED BY THE EXPERIENCE TO DATE WITH THE
DAVIGNON STEEL PLAN. ALTHOUGH IN THE CASE OF STEEL THE
LEGAL BASIS, I.E. THE TREATY OF PARIS, FOR THE DAVIGNON
APPROACH IS QUITE DIFFERENT FROM THE FIBERS CARTEL,
COMMISSION EXPERIENCE WITH STEEL LED TO QUESTIONS ABOUT
(1) THE PATH TOWARDS CARTELIZATION THE EC SEEMED TO BE
TAKING AND (2) THE EFFECTIVENESS OF CARTELS IN DEALING
WITH PROBLEMS OF OVERCAPACITY. WHILE THE COMMISSION
DECISION DOES NOT RULE OUT THE POSSIBILITY OF FUTURE
COMMISSION-INSPIRED PLANS FOR INDUSTRY SIMILAR TO THE

STEEL PLAN (E.G. SHIPBUILDING), ESPECIALLY IF THE ECONOMIC
SITUATION GETS WORSE, IT DOES FOR NOW SEEM TO CLOSE THE
GATE ON PRIVATE PRODUCER AGREEMENTS AS A MEANS OF COPING
WITH THE CRISIS. HINTON

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